

Message Text

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ACTION IO-14

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FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC IMMEDIATE 9719
INFO AMEMBASSY BONN PRIORITY
AMEMBASSY DAR ES SALAAM
AMEMBASSY GABORONE
AMEMBASSY LAGOS
AMEMBASSY LONDON PRIORITY
AMEMBASSY LUSAKA IMMEDIATE
AMEMBASSY MAPUTO
AMEMBASSY OTTAWA PRIORITY
AMEMBASSY PARIS PRIORITY
AMEMBASSY PRETORIA IMMEDIATE
AMCONSUL CAPE TOWN IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 03 USUN NEW YORK 00644

C O R R E C T E D C O P Y (CORRECTING PARA 5 - INSERTING
LINES 10, 11 AND 12 - OMITTED ORIGINAL TRANSMISSION)
FOR AMEMBASSY CAPE TOWN

E.O. 11652: GDS
TAGS: PORG, SF, WA
SUBJECT: NAMIBIA: INFORMAL PAPER FOR USE WITH FOURIE

1. FOLLOWING IS TEXT OF INFORMAL PAPER FOR USE BY CAPE
TOWN FIVE IN UPCOMING MEETING WITH BRAND FOURIE DISCUSSED
SEPTTEL.

2. CLARIFICATION A (PARA 2 OF OUR PROPOSAL): YOU SUGGES-
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TED THAT YOUR DIFFICULTIES ARE NOT RESOLVED BY THE RE-
PLACEMENT OF THE WORDS "WITH APPROPRIATE UNITED NATIONS
SUPERVISION AND CONTROL" BY THE WORDS "WITH AN APPROPRIATE
UNITED NATIONS ROLE AS REQUIRED BY RESOLUTION 385." YOUR
SUGGESTED REFERENCE TO "WITH THE ASSISTANCE OF THE UNITED
NATIONS" WOULD BE TOO WEAK. WE FEEL IT ESSENTIAL THAT
REFERENCE BE MADE TO RESOLUTION 385 IN THIS CONTEXT AND

THEREFORE PROPOSE: "WITH AN APPROPRIATE UNITED NATIONS
ROLE IN ACCORDANCE WITH RESOLUTION 385".

3. CLARIFICATION E (PARA 4): YOU SUGGEST ALTERNATIVE
LANGUAGE TO THE EFFECT THAT THE RELATIONSHIP BETWEEN THE
ADMINISTRATOR-GENERAL AND THE SPECIAL REPRESENTATIVE
SHALL NOT PREJUDICE THE LEGAL POSITIONS OF ANY OF THE
PARTIES. WE FEEL, HOWEVER, THAT, GIVEN THE UNITED NATIONS
OFT-STATED POSITION ON SOUTH AFRICA'S PRESENCE IN THE
TERRITORY, OUR PROPOSAL MUST CONTAIN THE STATEMENT THAT
THIS WORKING RELATIONSHIP SHALL IN NO WAY CONSTITUTE REC-
OGNITION OF THE LEGALITY OF THE SOUTH AFRICAN PRESENCE.
SUCH A DISCLAIMER WILL BE NECESSARY TO OBTAIN UN ENDORSE-
MENT OF OUR PROPOSAL AND ACCEPTANCE OF THE RELATIONSHIP
BETWEEN THE ADMINISTRATOR-GENERAL AND THE SPECIAL REPRESEN-
TATIVE.

4. CLARIFICATION F (PARA 5):

- 1) "...AT ALL LEVELS OF ADMINISTRATION". IT IS
INDEED OUR INTENTION IN INSERTING THIS PHRASE TO MAKE SURE
THAT ACTIONS BY LOCAL AUTHORITIES ARE CONSISTENT WITH A
FREE AND FAIR POLITICAL PROCESS. AT THE SAME TIME, WE
RECOGNIZE THE CENTRAL RESPONSIBILITY OF THE ADMINISTRATOR-
GENERAL.

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- 2) "...IT SHALL NOT TAKE EFFECT". IT IS OUR
UNDERSTANDING THAT THESE WORDS ARE IMPLICIT IN THE CONCEPT
OF THE SPECIAL REPRESENTATIVE HAVING TO SATISFY HIMSELF.
AS YOU APPEAR TO HAVE A PRESENTATIONAL DIFFICULTY, WE
PROPOSE REWRITING THE LAST PORTION OF THE SECOND SENTENCE
OF PARAGRAPH 5 AS FOLLOWS: "...THE UNITED NATIONS SPECIAL
REPRESENTATIVE WILL HAVE TO SATISFY HIMSELF AT EACH STAGE
AS TO THE FAIRNESS AND APPROPRIATENESS OF ALL MEASURES
AFFECTING THE POLITICAL PROCESS AT ALL LEVELS OF ADMINIS-
TRATION BEFORE SUCH MEASURES TAKE EFFECT. THE SUBSEQUENT
SENTENCE BEGINNING "IF HE IS NOT SATISFIED..." WOULD THEN
BE DELETED.

- 3) "...PROPOSE ACTION FOR THE IMPLEMENTATION OF
ANY ASPECT OF THE POLITICAL PROCESS". WE ACCEPT THE
CHANGE IN LANGUAGE WHICH YOU HAVE PROPOSED ON THIS POINT.
("MAKE PROPOSALS IN REGARD TO ANY ASPECT OF THE POLITICAL
PROCESS").

- 4) "POLITICAL PROCESS". YOU HAVE COMMENTED THAT
THE TERM "POLITICAL PROCESS" HAS REPLACED "ELECTORAL PRO-
CESS" IN THIS PARAGRAPH. WE DO NOT BELIEVE THAT SUCH A

CHANGE HAS OCCURRED AND WISH TO POINT OUT THAT THE TERM
"POLITICAL PROCESS" WAS USED IN THIS PARAGRAPH IN OUR
ORIGINAL PROPOSAL.

5. CLARIFICATION L (PARA 7(B)): WE DEVELOPED THE MECHANISM
CONTAINED HERE FOR SETTLEMENT OF DISPUTES REGARDING POLITI-
CAL PRISONERS IN ORDER TO MEET YOUR CONCERN THAT DISPUTES
REGARDING POLITICAL PRISONERS BE RESOLVED BY AN INDEPENDENT
PERSON OR BODY WHILE RECOGNIZING THAT THERE ARE INDEED
POLITICAL ASPECTS TO THIS QUESTION. WE BELIEVE THAT THE
INDEPENDENCE OF HIS ADVICE WOULD NOT BE PREJUDICED BY HIS
DESIGNATION AS LEGAL ADVISER TO THE SPECIAL REPRESENTATIVE.
IN AN EFFORT TO UNDERLINE HIS INDEPENDENCE FROM THE REST
OF THE LEGAL STAFF WE WOULD PROPOSE THE FOLLOWING LANGUAGE
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CHANGE: REPLACE THE WORDS "TO BE THE SPECIAL REPRESENTA-
TIVE'S CHIEF LEGAL ADVISER" WITH "TO BE LEGAL ADVISER TO

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AMCONSUL CAPE TOWN IMMEDIATE

C O N F I D E N T I A L SECTION 02 OF 03 USUN NEW YORK 00644

FOR AMEMBASSY CAPE TOWN

THE SPECIAL REPRESENTATIVE".

- WE SEE NO WAY FOR THIS DISPUTE MECHANISM TO DEAL WITH NAMIBIANS HELD OUTSIDE THE TERRITORY. WE BELIEVE THAT PRIVATE REPRESENTATIONS TO THE GOVERNMENTS CONCERNED WILL CONTINUE TO BE THE MOST EFFECTIVE WAY OF MEETING OUR REQUIREMENT (PARA 7(C)) THAT ALL NAMIBIANS SHOULD BE FREE TO RETURN PEACEFULLY, AND WE ALSO ENVISAGE AN IMPORTANT ROLE (PARA 7(D)) FOR THE UN HIGH COMMISSIONER FOR REFUGEES.

6. CLARIFICATION O (PARA 8(A)): THERE MAY HAVE BEEN SOME
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MISUNDERSTANDING ABOUT OUR DELETION OF THE WORDS "UNDER UNITED NATIONS MONITORING" BOTH IN THIS PARAGRAPH AND IN PARAGRAPH 8(B). WE HAVE NO INTENTION OF ABANDONING OUR REQUIREMENT THAT THE CESSATION OF HOSTILE ACTS BY ALL PARTIES SHOULD BE MONITORED BY UNITED NATIONS PERSONNEL. WE CAME TO THE CONCLUSION, HOWEVER, THAT THE ORIGINAL LANGUAGE OF OUR PARAGRAPHS 8(A) AND (B) WAS NO MORE THAN A DUPLICATION OF WHAT APPEARS ALREADY IN WHAT IS NOW PARAGRAPH 8(E), NAMELY THAT THE MILITARY SECTION OF UNTAG SHOULD "ENSURE" (SEE COMMENT ON CLARIFICATION R) THAT THE PROVISIONS OF THE AGREED SOLUTION WOULD BE OBSERVED BY ALL PARTIES. THIS GENERAL PROVISION CERTAINLY INCLUDES AN OBLIGATION TO MONITOR THE CESSATION OF ALL HOSTILE ACTS; IT ALSO COVERS AMONG OTHER MATTERS SUCH SEPARATE ASPECTS OF OUR PROPOSAL AS UN SUPERVISION OF THE ESTABLISHMENT OF DESIGNATED ENTRY POINTS ALONG THE BORDER TO ENSURE THE PEACEFUL RETURN OF SWAPO PERSONNEL TO NAMIBIA (PARAGRAPH 8(E)), AND THE GENERAL OBLIGATION LAID UPON THE SPECIAL REPRESENTATIVE TO TAKE STEPS TO GUARANTEE AGAINST INTIMIDATION OR INTERFERENCE WITH THE ELECTORAL PROCESS FROM WHATEVER QUARTER.

7. CLARIFICATION R (PARA 8 (E)):

- 1) WE NOTE THAT THE WORD "ENSURE", IN THE FIRST SENTENCE OF THIS PARAGRAPH, PRESENTS YOU WITH DIFFICULTIES; AND WE WOULD BE PREPARED TO AMEND THIS PASSAGE AS FOLLOWS:

- "TO MAKE SURE THAT THE PROVISIONS OF THE
- AGREED SOLUTION WILL BE OBSERVED BY ALL
- PARTIES."

WHILE WE REALIZE THAT YOU WOULD PREFER "SATISFY ITSELF",
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WE WOULD ASK YOU TO BEAR IN MIND THAT THIS SENTENCE REFERS
TO THE OBLIGATION UPON "ALL PARTIES" TO OBSERVE THE AGREED
SOLUTION.

- 2) A MISUNDERSTANDING MAY HAVE ARISEN OVER OUR
NEW SENTENCE WHICH REFERS TO CONSULTATIONS BETWEEN THE
SECRETARY-GENERAL AND ALL THOSE CONCERNED WITH THE IMPLE-
MENTATION OF THE AGREEMENT. WHAT WE HAVE IN MIND IS THAT,
AS IN PAST UN OPERATIONS ELSEWHERE, THE SECRETARY-
GENERAL WOULD CONSULT THOSE DIRECTLY CONCERNED ON THE
ESTABLISHMENT OF THE MILITARY SECTION OF UNTAG, INCLUDING
ITS COMPOSITION, AND TAKE DUE ACCOUNT OF THEIR VIEWS. WE
ASSUME THAT WITH THIS EXPLANATION THE QUESTION OF A DIS-
PUTE SETTLEMENT MECHANISM DOES NOT ARISE IN THIS CONTEXT.

- 3) YOU ASKED FOR A CLARIFICA-
TION OF THE FINAL SENTENCE OF THIS PARAGRAPH, WHICH STATES
THAT OUR FIVE GOVERNMENTS, AS MEMBERS OF THE SECURITY
COUNCIL, "WILL SUPPORT THE SECRETARY-GENERAL'S JUDGEMENT
IN HIS DISCHARGE OF THESE RESPONSIBILITIES". IT WAS OUR
INTENTION TO INDICATE THAT WE WOULD SUPPORT HIS JUDGEMENT
(FOLLOWING HIS CONSULTATIONS WITH THOSE CONCERNED) ON THE
SIZE AND COMPOSITION OF THE MILITARY SECTION OF UNTAG. ON
REFLECTION, WE THINK THAT THIS SENTENCE FOLLOWS NATURALLY
UPON THE EARLIER SENTENCE WHICH READS "IN ESTABLISHING THE
MILITARY SECTION OF UNTAG, THE SECRETARY-GENERAL WILL KEEP
IN MIND FUNCTIONAL AND LOGISTICAL REQUIREMENTS". THE
REMAINDER OF THE PARAGRAPH COULD THEN READ "THE FIVE GOV-
ERNMENTS AS MEMBERS OF THE SECURITY COUNCIL, WILL SUPPORT
THE SECRETARY-GENERAL'S JUDGEMENT IN HIS DISCHARGE OF THIS
RESPONSIBILITY. THE SECRETARY-GENERAL WILL, IN THE NORMAL
MANNER, INCLUDE IN HIS CONSULTATIONS ALL THOSE CONCERNED
WITH THE IMPLEMENTATION OF THE AGREEMENT."

- PARAGRAPH 9.

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C O N F I D E N T I A L SECTION 03 OF 03 USUN NEW YORK 00644

FOR AMEMBASSY CAPE TOWN

- 1) WE NOTE THAT YOU ARE STILL EXAMINING OUR
CLARIFICATION T.

- 2) WE SEE GREAT DIFFICULTY IN MEETING YOUR
SUGGESTION THAT THE SPECIAL REPRESENTATIVE AND THE ADMIN-
ISTRATOR-GENERAL SHOULD TOGETHER DECIDE WHEN IT IS APPRO-
PRIATE FOR UN PERSONNEL TO ACCOMPANY THE POLICE FORCE IN
THE DISCHARGE OF THEIR DUTIES. THE WHOLE SPIRIT OF OUR
PROPOSAL IS THAT THESE TWO OFFICIALS SHOULD WORK CLOSELY
TOGETHER. NEVERTHELESS, THEY HAVE SEPARATE AND DISTINCT
FUNCTIONS. WE HAVE ALREADY MADE IT CLEAR IN THE PRECEDING
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SENTENCE OF THE PROPOSAL THAT IT IS THE ADMINISTRATOR-
GENERAL'S RESPONSIBILITY TO ENSURE THE GOOD CONDUCT OF THE
POLICE FORCES, WHICH FALL UNDER HIS IMMEDIATE CONTROL.
THE SPECIAL REPRESENTATIVE WILL HAVE DIRECT CONTROL OF UN
PERSONNEL, AND WE DO NOT BELIEVE THAT THE SECURITY COUNCIL
WOULD AGREE WITH AN EXPLICIT PROVISION THAT THE ADMINIS-
TRATOR-GENERAL SHOULD DECIDE ON THE DISPOSITION OF UN
PERSONNEL. WE COULD, HOWEVER, TRY TO MEET YOUR CONCERNS -
BY RE-DRAFTING THE SENTENCE IN QUESTION AS FOLLOWS:

- "UNITED NATIONS PERSONNEL SHALL WHEN

- APPROPRIATE ACCOMPANY THE POLICE FORCES
- IN THE DISCHARGE OF THEIR DUTIES".

WE STRESS THAT IT WILL STILL BE FOR THE SPECIAL REPRESENTATIVE TO DECIDE WHAT IS APPROPRIATE.

- 3) WE AGREE WITH YOU THAT THE FINAL SENTENCE OF PARAGRAPH 9 SHOULD APPEAR AS A SEPARATE PARAGRAPH. IT WILL BECOME PARAGRAPH 10 OF OUR PROPOSAL, AND THE PRESENT PARAGRAPH 10 WILL BECOME PARAGRAPH 11.

8. CLARIFICATION U (OLD PARA 11): HERE AGAIN, THERE MAY HAVE BEEN A MISUNDERSTANDING. OUR "TENTATIVE FORMULATION" ON WALVIS BAY WAS NOT NECESSARILY INTENDED TO REPLACE THE PRESENT PARAGRAPH 11 IN THE BODY OF OUR PROPOSAL. THE FOUR POINTS WE MAKE ON WALVIS BAY COULD BE MADE IN OTHER WAYS: FOR EXAMPLE, IN THE COVERING LETTER BY OUR FIVE GOVERNMENTS TO THE PRESIDENT OF THE SECURITY COUNCIL WHICH ENCLOSES OUR PROPOSAL, OR IN STATEMENTS BY THE FIVE GOVERNMENTS IN THE COURSE OF THE SECURITY COUNCIL DEBATE. WE HAVE REACHED NO FINAL DECISION ON THIS MATTER. IRRESPECTIVE OF HOW OUR FOUR POINTS ARE MADE, HOWEVER, WE

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BELIEVE THAT THE THIRD POINT SHOULD REMAIN AS AT PRESENT DRAFTED, NAMELY THAT THE FIVE CONSIDER THAT ALL ASPECTS OF THE QUESTION OF WALVIS BAY "SHOULD BE SUBJECT TO DISCUSSION" BETWEEN THE SOUTH AFRICAN GOVERNMENT AND THE GOVERNMENT OF NAMIBIA. YOUNG

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